
Appeal Decision

Site visit made on 11 October 2016

by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 November 2016

Appeal Ref: APP/H5390/D/16/3155610
124 Hurlingham Road, London SW6 3NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Jerry Lee against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/01353/FUL, dated 23 March 2016, was refused by notice dated 27 May 2016.
 - The application sought planning permission for excavation of front garden and part of rear garden to form lightwells in connection with the enlargement of the existing basement without complying with a condition attached to planning permission Ref 2013/03052/FUL, dated 4 November 2013.
 - The condition in dispute is No 2 which states that: *"The development shall be carried out and completed only in accordance with the submitted drawings."*
 - The reason given for the condition is: *"To ensure a satisfactory external appearance and to prevent harm to the street scene in accordance with Policy BE1 of the Core Strategy 2011 and Policy DM G3 and G7 of the Development Management Local Plan 2013."*
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Decision

1. The appeal is allowed and planning permission is granted for the excavation of front garden and part of rear garden to form lightwells in connection with the enlargement of the existing basement at 124 Hurlingham Road, London SW6 3NF in accordance with the application Ref 2016/01353/FUL dated 23 March 2016 subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mr Jerry Lee against the Council of the London Borough of Hammersmith & Fulham. This application is the subject of a separate Decision.

Preliminary matter

3. The application subject of this appeal was made under Section 73 of the Act for a minor material amendment. It sought to amend the development granted planning permission Ref 2013/03052/FUL, by making the rear enlargement of the basement and rear lightwell deeper and by making the front lightwell larger. Condition 2 of the extant planning permission restricts the development to that shown on the original plans, and therefore the appeal seeks to remove
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this condition and to replace it with a condition which relates to the amended plans.

4. At the time of my site visit the rear lightwell and basement had been excavated in accordance with the extant planning permission, but the front lightwell had already been excavated, as shown on the amended plans, and was covered by a black metal grille.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the Hurlingham Conservation Area (HCA).

Reasons

6. The HCA is generally characterised by long terraces of dwellings with a consistent and regular design and appearance. In proximity of the site, the houses are generally tall with small front and rear gardens and ground floor bay windows on the frontage. White stucco is a common finishing material which gives the street scene a high quality appearance.
7. With the exception of the path from the street to the front door, the front garden of the site is covered by a black metal grille over the lightwell below. Some of the neighbouring properties also have front lightwells covered with metal grilles. Those at No 122, adjacent to the site, and at No 130 are comparable to that at the appeal site in that they cover the majority of the front garden and do not follow the shape of their ground floor bay windows. The lightwell at No 128 however does follow the shape of its ground floor bay window.
8. Design Policy 18 of the Council Planning Guidance Supplementary Planning Document (SPD) states that lightwells should follow the shape of bay windows, and indeed this is what is approved in the extant planning permission for the site. However Design Policy 14 of the SPD advises that where there are existing lightwells in a street or terrace and where a different model has been established, further lightwells which match the predominant design may be acceptable. In proximity of the site, the predominant design is the larger lightwell which does not follow the shape of the bay window, and therefore the advice suggests that the lightwell at the appeal site may be acceptable.
9. Due to the subterranean nature of the lightwell and the fact that the grille is flush with the ground, it does not appear prominent in the street scene and does not materially detract from the character of the host property. Indeed, it reflects the predominant design of other lightwells and grilles in the immediate area and so would not appear incongruous in the context of its host terrace or the wider street scene. Furthermore, the grille does still allow planting in containers to be provided in the front garden, though I do not consider this essential to the acceptability of the development.
10. The Council do not raise any objection to the deeper rear basement and lightwell, and I have no reason to come to a different view.
11. Accordingly I consider the development is sympathetic to the character of the host property, the terrace and the street scene and it therefore preserves the character and appearance of the HCA. As such it accords with Policy BE1 of the Core Strategy and DM G3 of the Development Management Local Plan (DMLP)

which both require development to be compatible with its context, and Policy DM A8 of the DMLP which aims to ensure basements and lightwells do not adversely impact upon the local and historic environment. The development also complies with the advice in the SPD as set out above.

Other Matters

12. Although I note the concerns from the neighbour regarding the Party Wall Agreement, these are matters that are dealt with by other legislation. Also, I do not consider what is currently proposed to the rear of the house is ambiguous and the neighbours would have had the opportunity to view the drawings in the previous application at that time.

Conditions

13. In allowing the appeal and granting planning permission, I have considered those conditions imposed on the extant planning permission against the requirements of the Planning Practice Guidance and the National Planning Policy Framework (the 'Framework').
14. I have not imposed the standard condition relating to the commencement of development as the development has already commenced. I consider the conditions on the extant planning permission relating to matching materials; the structure above the openings; plumbing, flues or pipes; and the front facing basement windows, are necessary in the interests of preserving the character and appearance of the area. Also it is necessary to impose the condition preventing the separation of the use of the basement from the use of the rest of the house in the interests of the character of the area.
15. Three conditions differ from those on the extant planning permission. Condition 1 effectively replaces condition 2 of the extant planning permission and is that which the appellant sought to amend by virtue of this appeal. Condition 5 reflects the amended drawing number and the fact that the front lightwell has already been excavated. Condition 6 also differs from the corresponding condition on the original permission as it reflects the fact that the metal grille above the front lightwell has already been fitted.

Conclusions

16. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed.

Andrew Owen

INSPECTOR

Schedule of Conditions

1. The development shall be carried out and completed only in accordance with drawing numbers PA-01, PA-03, PA-04, PA-05 and PA-06.
2. Any alterations to the elevations of the existing building shall be carried out in the same materials as the existing elevation to which the alterations relate.
3. Where openings are to be formed in the external faces of the building/extension, the parts of the structure above such openings shall be supported by brick arches, brick faced lintels, or such other means as may be agreed in writing by the Council prior to construction.
4. No plumbing, extract flues or pipes, other than rainwater pipes, shall be fixed on the front elevation of the building.
5. The dimensions of the front lightwell at basement and ground floor levels shall not exceed the dimensions as indicated on approved drawing PA-01 and the lightwell shall be completed in accordance with the approved details.
6. The metal grille over the front lightwell shall be permanently retained in place. At no time shall railings be constructed around the lightwell.
7. The basement floorspace hereby approved shall not be converted to use as a separate dwelling, and shall only be used in connection with, and ancillary to, the use of the application property as a single dwelling.
8. The new windows in the front elevation at basement level hereby approved shall be timber frame construction to match the existing windows.